

PATENT COOPERATION TREATY

PCT

REC'D 18 APR 2006



WIPO

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PWO-G003-001	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/IB2004/004211	International filing date (day/month/year) 17.12.2004	Priority date (day/month/year) 22.12.2003	
International Patent Classification (IPC) or national classification and IPC INV. B65D77/06 B65D81/20 B65D81/00 B65B31/00			
Applicant GOUVERNEUR, Fedor et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 9 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 20.10.2005		Date of completion of this report 13.04.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Balz, O Telephone No. +49 89 2399-7218 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/004211

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-8 as originally filed

Claims, Numbers

1-17 filed with telefax on 20.10.2005

Drawings, Sheets

1/6-6/6 filed with telefax on 20.10.2005

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/004211

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 7-14

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 7-14

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form ☐ has not been furnished

☐ does not comply with the standard

the computer readable form ☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/004211

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ neither restricted nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-6, 15-17 .

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3, 5, 16, 17
	No: Claims	1, 2, 4, 6, 15
Inventive step (IS)	Yes: Claims	
	No: Claims	1-6, 15-17
Industrial applicability (IA)	Yes: Claims	1-6, 15-17
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2004/004211

Re Item IV.

The separate inventions/groups of inventions are:

claims 1-6, 15-17

Group I relates to a package including a pouch and a pressurizable container, especially a two-piece container and a method of packaging.

claims 7,8

Group II relates to package including a pouch and a container whereby the pouch is made of filter material.

claims 9-14

Group III relates to a sleeve for a package.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The common technical features between the three groups of claims are: a package, including a pouch and a container, according to claim 1. This is widely known in the prior art and disclosed e.g. by US1454739.

The potential special technical features of the different groups and the corresponding problems are:

- group I: different constructional feature of the container, especially of the cover. The problem solved by this feature is to reliable seal and open the container.
- group II: filter material. The problem solved by this feature is to facilitate brewing coffee by using the pouch directly for preparing the coffee without the use of an additional filter.
- group III: sleeve. The problem solved by this feature is to facilitate the transport of several packages by bundling them.

At least parts of the group II are already known from one of the documents cited in the search report.

The three groups of claims do not share an inventive technical relationship therefore the requirements under Rule 13.2 PCT is not fulfilled. Hence the application contains three

subjects and consequently does not satisfy Rule 13.1 PCT.

Re Item V.

- 1 Reference is made to the following documents:
D1: US-A-1 454 739 (HOLLAND CLIFTON BENNET) 8 May 1923 (1923-05-08)
D2: GB-A-1 277 826 (PROCTER & GAMBLE) 14 June 1972 (1972-06-14)
D3: US-A-3 387 553 (TAVERA ANTONIO) 11 June 1968 (1968-06-11)
D4: DE 93 14 989 U1 (DR. SCHIRM AG, 23568 LUEBECK, DE) 25 November 1993
(1993-11-25)
D5: EP-A-0 368 116 (VALLE SPLUGA S.P.A) 16 May 1990 (1990-05-16)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parentheses applying to this document): a package for packing coffee (5) or tea particulate for later transport, the package including a pouch (1) filled with the particulate and a pressurizable container (8) constructed in a manner of an ordinary pressurizable beverage container wherein the pouch is packaged inside the container and hermetically sealed therein.
Thus the package according to claim 1 is not new.
On page 1, line 110-112 it is stated that the pouches are packed in an air-tight can, which can be considered as hermetically sealed, i.e. the container is able to be pressurized thus pressurizable. The term ordinary pressurizable beverage container used in claim 1 is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the of this part of the subject-matter of said claims unclear, Article 6 PCT.

Accordingly the method of packaging according to claim 15 is not new either (see page 1, line 90-112).

D2 and D3 are as well disclosing all the technical features of claim 1.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2004/004211

3. The technical features of dependent claims 2-6, 16 and 17 are known from at least one of the documents D1-D5, e.g.:
claim 2-5; two-piece container (see D1, fig. 5),
claim 6: opening tab (see D4, fig. 1),
claim 16, 17: pellets of dry ice for CO₂ gas (see D7, column 3, line 8-12).
Thus the package according to the above claims are not new and/or not involving an inventive step (Art. 33(3) PCT).
4. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D5 is not mentioned in the description, nor are these documents identified therein.

182004/004211

PWO-G003-001

In the claims:

1 1. A package (10) for packaging coffee or tea particulate (12) for later transport is
2 provided, the package including:

3 (a) a pouch (14) filled with the particulate; and

4 (b) a pressurizable container (16) constructed in a manner of an ordinary
5 pressurizable beverage container, wherein the pouch is packaged inside the container,
6 optionally in a CO₂ environment under pressures exceeding ambient pressure, and
7 hermetically sealed therein.

1 2. The package (10) of claim 1, wherein the pressurizable container (16) is a two-piece
2 container.

1 3. The package (10) of claim 1, wherein the pressurizable portion of the container (16) is
2 essentially made up of two parts comprising a closed-ended cylindrical body sealingly
3 closeable by a disk-shaped cap via a method of rolling edges of the parts together.

1 4. The package (10) of claim 2, wherein the two-piece container (16) is a can comprised
2 of a first, cup-shaped portion (20) having an opening (21), and a second covering piece
3 (22) having a shape corresponding to the opening for covering the opening, wherein the
4 pouch (14) is packaged inside the cup-shaped portion, optionally in a CO₂ environment
5 under pressures exceeding ambient pressure, and hermetically sealed therein by sealingly
6 engaging the second covering piece with the opening of the cup-shaped portion.

1 5. The package (10) of one of claim 4, wherein the second covering piece (22) is disk-
2 shaped and includes an opening tab (42) to facilitate opening of the container (16), thus

REPLACEMENT SHEET

1B 2004 1004211

PWO-G003-001

- 3 permitting access to the pouch (14).
- 1 6. The package (10) of claim 1, wherein the particulate (12) is sealed in the pouch (14).
- 1 7. The package (10) of claim 1, wherein the pouch (14) is made of filter material.
- 1 8. The package (10) of claim 7, wherein the filter material is selected from a group of
2 materials consisting of porous paper, porous cellulos, and porous woven material
3 constructed so as to be sufficiently strong to withstand the stresses induced upon opening
4 the package.
- 1 9. The package (10) of claim 1, wherein such package is formed so as to be efficiently
2 packagable together with other such packages, in a system (56) including a sleeve (60),
3 wherein at least two packages may be inserted inside the sleeve.
- 1 10. The package (10) of claim 9, wherein the package is stored within the sleeve (60) in a
2 longitudinal orientation.
- 1 11. The package (10) of claim 9, wherein the sleeve (60) is transparent and semi-rigid.
- 1 12. The package (10) of claim 9, wherein the sleeve (60) comprises an inner and outer
2 portion (70, 72), the portions telescoping so as to adjust the height and thus the package
3 storage capacity of the sleeve.

REPLACEMENT SHEET

AMENDED SHEET

182004/004211

PWO-G003-001

1 13. The package (10) of claim 10, wherein at least one of the portions (70, 72) is
2 transparent and cup shaped, having a closed end (76) and an open end (80), and
3 measuring marks (82) interspersed along its length, so as to serve as a measuring beaker
4 for liquid, such as water.

1 14. The package (10) of claim 10, wherein the sleeve (60') is made of a printable
2 material.

1 15. A method (100) of packaging tea or coffee particulate (12), the method comprising
2 the steps of:

3 (a) filling a filter pouch (14) with particulate;

4 (b) closing the pouch;

5 (c) inserting the filled filter pouch (14) through an opening (21) into a first, cup-
6 shaped portion (20) of a two-piece, pressurizable container (16); and

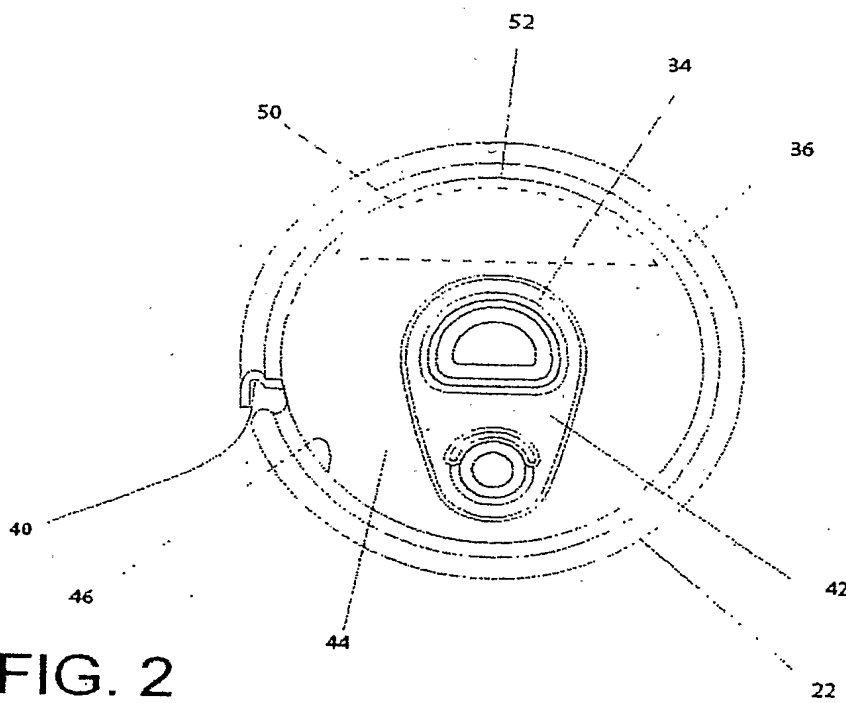
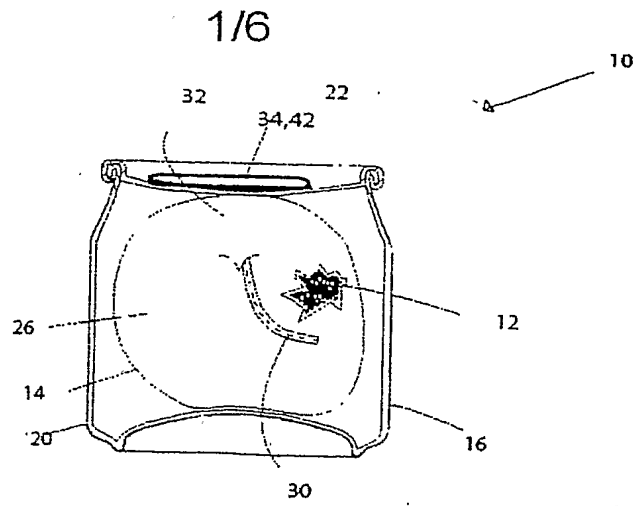
7 (d) hermetically sealing the pouch inside the cup-shaped portion by sealing a
8 second, covering portion (22) over the opening.

1 16. The method (100) of claim 16, wherein the sealing seals above-ambient pressure CO₂
2 gas into the container (16) prior to sealing of the container.

1 17. The method (100) of claim 17, wherein, prior to sealing, pellets (28) of dry ice are
2 placed inside the container (16).

REPLACEMENT SHEET

18 2004/004211



1B2004/004211

2/6

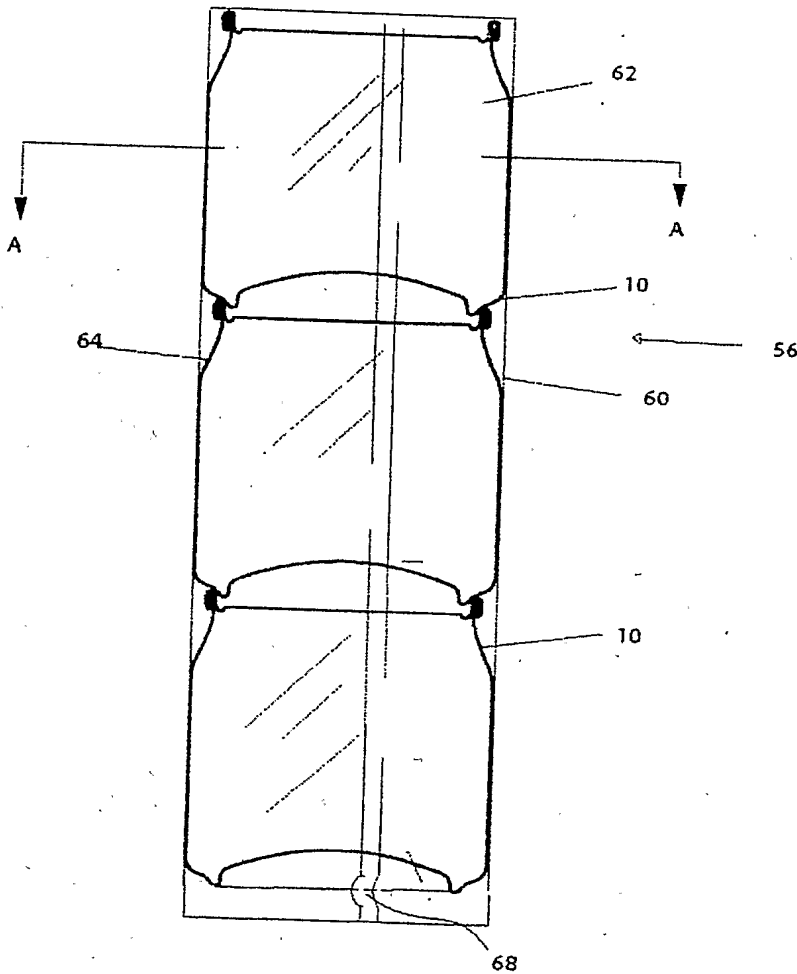


FIG. 3A

3/6

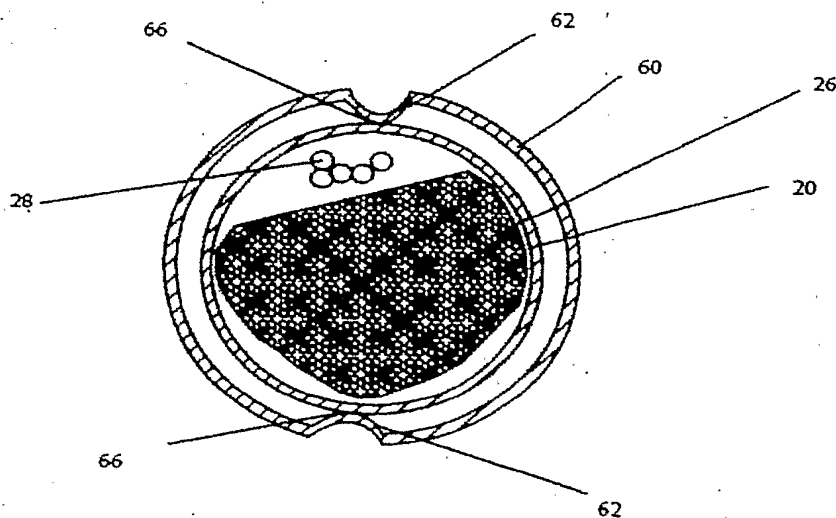


FIG. 3B

4/6

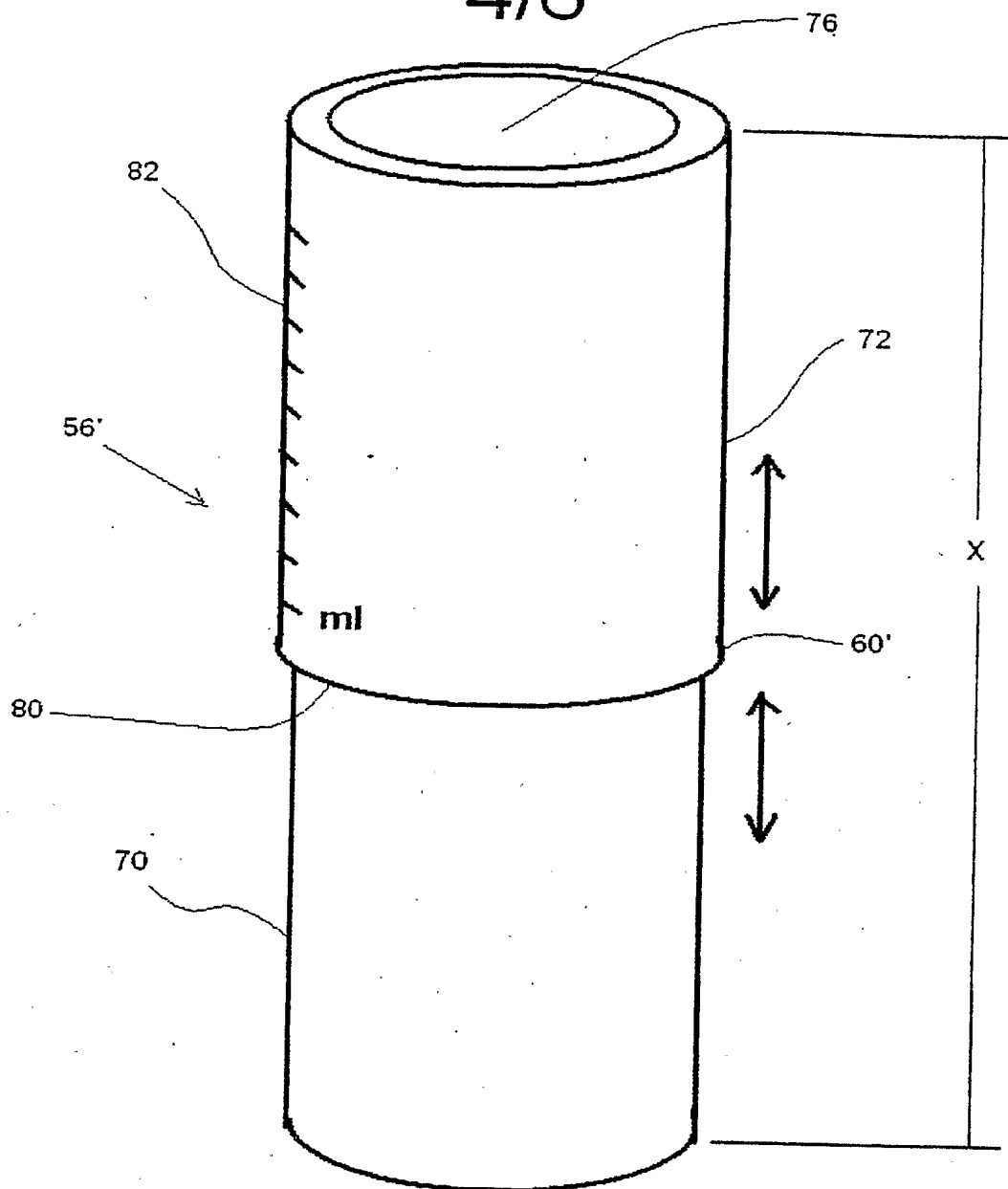


FIG. 4

5/6

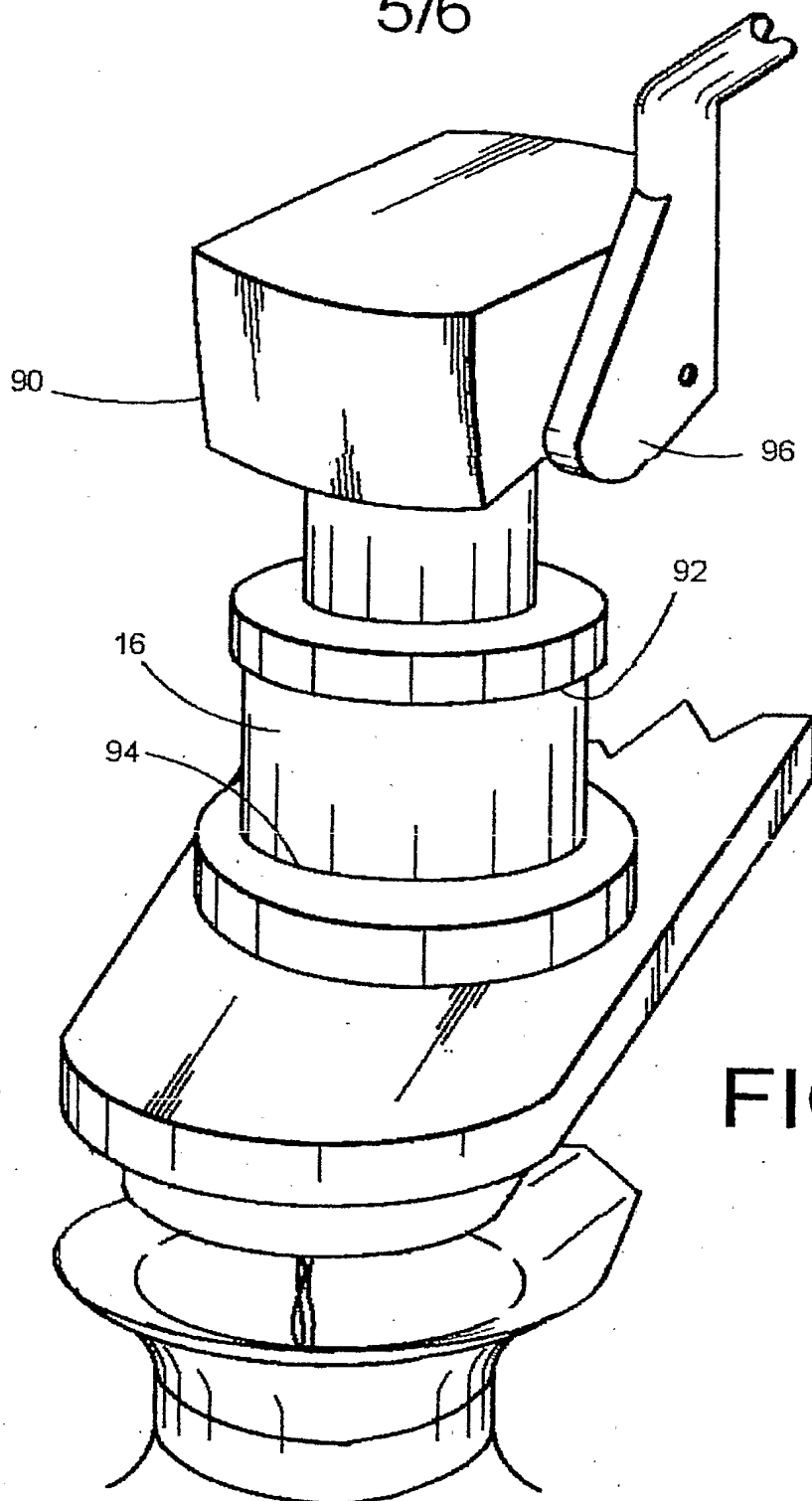


FIG. 5

6/6

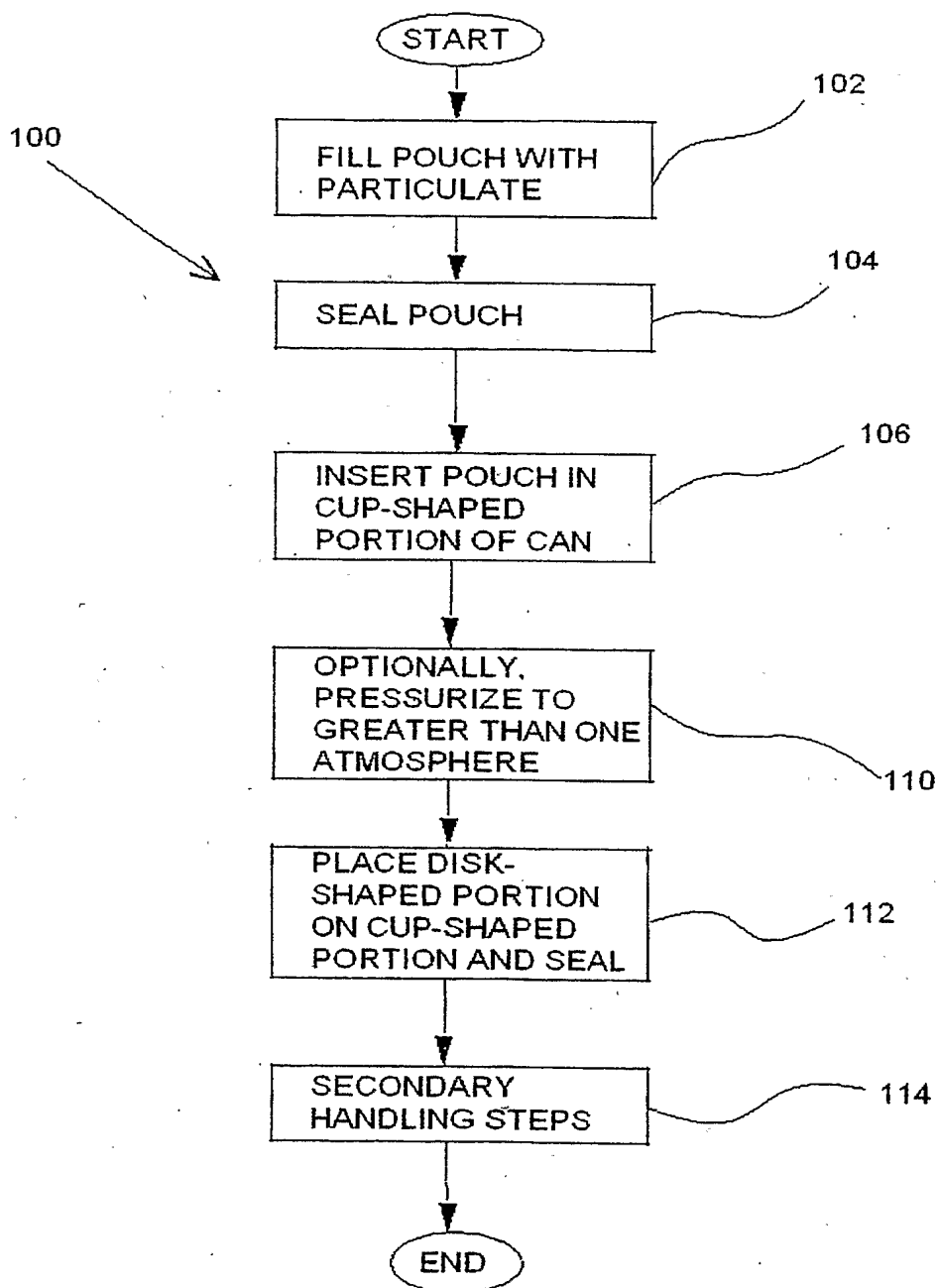


FIG. 6